

Baker & Hostetler LLP

45 Rockefeller Plaza

New York, NY 10111

Telephone: (212) 589-4200

Facsimile: (212) 589-4201

David J. Sheehan

Keith R. Murphy

Robertson D. Beckerlegge

*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC and
the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

1096-1100 RIVER ROAD ASSOCIATES, LLC;
FRED A. DAIBES, LLC; and FRED A. DAIBES,

Defendants.

Adv. Pro. No. 10-05390 (SMB)

**STIPULATION AND ORDER FOR VOLUNTARY DISMISSAL
OF ADVERSARY PROCEEDING WITHOUT PREJUDICE**

Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.*, and the substantively consolidated estate of Bernard L. Madoff individually, by and through his counsel, Baker & Hostetler LLP, and defendants 1096-1100 River Road Associates, LLC, Fred A. Daibes, LLC, and Fred A. Daibes, an individual (“Defendants”), by and through their counsel, Gibbons P.C. (collectively, the “Parties”), hereby stipulate and agree to the following:

1. On December 9, 2010, the Trustee commenced the above-captioned adversary proceeding (the “Adversary Proceeding”) by filing and serving the Complaint against Defendants.

2. On August 26, 2014, Defendants served an answer on the Trustee.

3. On October 3, 2018, the Parties entered into a settlement agreement (the “Agreement”) pursuant to the Settlement Procedures Order, entered by this Court on November 12, 2010 [Dkt. No. 3181].

4. In accordance with Federal Rule of Civil Procedure 41(a)(1)(A)(ii), made applicable hereto by Federal Rule of Bankruptcy Procedure 7041, the Parties hereby stipulate to a dismissal of the Adversary Proceeding without prejudice and without costs to either Trustee or Defendants. Such dismissal will be subject to the right to re-open the Adversary Proceeding to seek entry of Judgment pursuant to the Stipulation for Entry of Judgment, attached as Exhibit 3 to the Agreement. Upon receipt of the full Secured Settlement Payment, as defined in the Agreement, and provided there is no default under the Agreement, this dismissal shall be deemed with prejudice.

5. The provisions of this Stipulation shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and upon all creditors and parties in interest.

6. This Stipulation may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this Stipulation shall be deemed an original.

Dated: November 14, 2018

BAKER & HOSTETLER LLP

By: /s/ Keith R. Murphy
45 Rockefeller Plaza
New York, New York 10111
Telephone: 212.589.4200
Facsimile: 212.589.4201
David J. Sheehan
Email: dsheehan@bakerlaw.com
Keith R. Murphy
Email: kmurphy@bakerlaw.com
Robertson D. Beckerlegge
Email: rbeckerlegge@bakerlaw.com

*Attorneys for Plaintiff Irving H. Picard, Trustee for
the Liquidation of Bernard L. Madoff Investment
Securities LLC and the Estate of Bernard L. Madoff*

GIBBONS P.C.

By: /s/ Mark Conlan
One Gateway Center
Newark, NJ 07102-5310
Telephone: 973.596.4545
Facsimile: 973.639.6356
Mark Conlan
Email: mconlan@gibbons.com
Lawrence S. Lustberg
Email: llustberg@gibbons.com
Brett S. Theisen
Email: btheisen@gibbons.com

Attorneys for Defendants

SO ORDERED

Dated: November 14th, 2018
New York, New York

/s/ STUART M. BERNSTEIN
HONORABLE STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE